

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|----------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | 8:11CR63 |
| vs. |) | |
| |) | ORDER |
| DONALD HERBOLSHEIMER, |) | |
| |) | |
| Defendant. |) | |

This matter is before the court on the defendant's unopposed motion to continue trial [39]. Defense counsel advises that a continuance is necessary as counsel will be out of the district. The defendant did not file an updated affidavit or declaration regarding speedy trial, as required by NECrimR 12.1(a). The district court's calendar can accommodate an extension to October 4, 2011.

IT IS ORDERED that the motion to continue trial [39] is granted as follows:

1. The jury trial now set for September 20, 2011 is further continued to **October 4, 2011**.

2. In accordance with 18 U.S.C. § 3161(h)(7)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **September 20, 2011 and October 4, 2011**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act. Failure to grant a continuance would deny the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

3. Defendant shall file an updated affidavit or declaration regarding speedy trial, in compliance with NECrimR 12.1(a), no later than September 16, 2011.

DATED August 29, 2011.

BY THE COURT:

s/ F.A. Gossett, III
United States Magistrate Judge